**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE**

**WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929**

**WP(C).No. 38844 of 2003(Y)**

**PETITIONER:**

**ANTONY XAVIER D'CRUZ,**
**LEANS LINES,**
**ETHALEAN HOUSE, VALIATHURA,**
**TRIVANDRUM.**

**BY ADV. SRI.R.S.KALKURA**

**RESPONDENTS:**

1. **UNION OF INDIA, REPRESENTED BY THE SECRETARY (FINANCE).**

2. **DEBT RECOVERY TRIBUNAL, ERNAKULAM, REPRESENTED BY ITS SECRETARY.**

3. **RECOVERY OFFICER, DEBT RECOVERY TRIBUNAL KERALA & LAKSHADWEEP, 8TH FLOOR, KSHB BLDG, PANAMBILLY NAGAR, ERNAKULAM.**

4. **DENA BANK,A BODY CORPORATE,CONSTITUED & FUNCTIONG UNDER THE BANKING COMPANIES ACT,HAVING ITS HO.AT MAKER TOWER E,CUFFE PARADE,MUMBAI&BRANCHES AMONG OTHER PLACES AT FORT,TVM,PREVIOUSLY AT OVER BRIDGE TRIVANDRUM, REPRESENTED BY THE MANAGER, DENA BANK, EAST FORT, TRIVANDRUM.**

**BY ADV. SRI.D.SAJEEV, SC, DENA BANK for R4**
**SMT.LIGEY ANTONY**
**SRI.S.SREEKUMARAN NAIR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

## APPENDIX

**PETITIONER'S EXHIBITS:**

| | |
|---|---|
| **EXT.P1:** | **COPY OF THE PLAINT IN O.S.NO.50/85 ON THE FILE OF THE SUB COURT, TRIVANDRUM DTD. 20/02/85.** |
| **EXT.P2:** | **COPY OF THE JUDGMENT IN O.S.NO.50/85 ON THE FILE OF THE SUB COURT, TRIVANDRUM DTD. 25/07/86.** |
| **EXT.P3:** | **COPY OF THE DECREE IN O.S.NO.50/85 ON THE FILE OF THE SUB COURT, TRIVANDRUM DTD. 25/07/86.** |
| **EXT.P4:** | **COPY OF THE EP FILED BY THE 4TH RESPONDENT DTD. NIL.** |
| **EXT.P5:** | **COPY OF THE DEMAND NOTICE DTD. 25/06/01.** |
| **EXT.P6:** | **COPY OF THE PLAINT O.S.NO.52/85 FILED BY THE 4TH RESPONDENT BEFORE THE SUB COURT, TRIVANDRUM DTD. NIL.** |
| **EXT.P7:** | **COPY OF THE APPLICATION FOR ONE TIME SETTLEMENT DTD. 17/10/1998 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.** |
| **EXT.P8:** | **COPY OF THE LETTER ACCEPTANCE OF ONE TIME SETTLEMENT DTD. 10/12/1998.** |
| **EXT.P9:** | **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT DTD. 30/01/1999.** |
| **EXT.P10:** | **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT DTD. 11/12/1999.** |
| **EXT.P11:** | **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT DTD. 11/12/1999.** |
| **EXT.P12:** | **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT DTD. 29/03/2001.** |
| **EXT.P13:** | **COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER DTD. 31/03/01.** |

**...2/-**

**EXT.P14:** COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER DTD. 31/03/01.

**EXT.P15:** COPY OF THE LETTER DTD. 16/04/2001.

**EXT.P16:** COPY OF THE LETTER DTD. 24/08/2001.

**EXT.P17:** COPY OF THE REPRESENTATION DTD. 24/12/2002.

**EXT.P18:** COPY OF THE LETTER DTD. 18/01/2003 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

**EXT.P19:** COPY OF THE LETTER DTD. 13/03/2003.

**EXT.P20:** COPY OF THE DEMAND DRAFT SUBMITTED BY THE PETITIONER DTD. 13/03/2003.

**EXT.P21:** COPY OF THE RECEIPT OF THE AMOUNT ON THE BASIS OF ONE TIME SETTLEMENT PROPOSAL OF THE PETITIONER WAS ENDORSED BY THE 4TH RESPONDENT DTD. 13/03/03.

**EXT.P22:** COPY OF THE NOTICE DTD. 30/10/2003 ISSUED BY THE RECOVERY OFFICER.

**EXT.P23:** COPY OF THE LETTER DTD. 21/06/2003 ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT.

**EXT.P24:** COPY OF THE RESERVE BANK GUIDE LINES DTD. NIL.

**/TRUE COPY/**

*KSS*

**PIUS C. KURIAKOSE,J.**

- - - - - - - - - - - - - - - - - - - - - - - - -

W.P.(C) No.38844 of 2003

- - - - - - - - - - - - - - - - - - - - - - - - -

Dated: 20th June, 2007

**JUDGMENT**

This Writ Petition is remaining defective on the reason that service not complete. But I find that it is only the petitioner and the 4th respondent-Bank who are concerned really with the matter involved.

2. Heard counsel for the petitioner and the counsel for the 4th respondent-Bank.

3. Having considered the Writ Petition and having heard the submissions, I am of the view that the only relief which can be aspired for by the petitioner is relief No.1. Accordingly, the Writ Petition will stand disposed of directing the 4th respondent-Bank to consider Ext.P19 One Time Settlement proposal submitted by the petitioner (if not already disposed of) and take a fair and just decision on that application. If the petitioner is desirous of a personal hearing, the same will be allowed by the Bank. The decision at any rate will be taken on the application within three months of receiving copy of this judgment.

srd **PIUS C.KURIAKOSE, JUDGE**